IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.1962 OF 2005

M/s. Vijay Distributors
& Anr. ..Petitioners

Vs.

Dr.G.P.Jain & Anr. ..Respondents

...
Mr.S.S.Kulkarni Advocate for Petitioners
Mr.V.B.Konde-Deshmukh, A.P.P. for the State
...

CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : AUGUST 24,2005

P.C.

1. Heard the learned advocate for the petitioners and the learned A.P.P. for the State.

2. The petitioners are seeking quashing of process issued by the learned Judicial Magistrate F.C.Nasik in C.C.No. 172 of 2003. In the said case process is issued against the petitioners under Sections 420 r.w.465, 468, 471, 420, 511 r.w. 34 of IPC.

3. The petitioners had preferred application before the learned Magistrate for recalling of process. The said application came to be rejected

by the learned Magistrate in view of the decision of the Supreme Court in the case of **Adalat Prasad Vs. Rooplal Jindal and others [(2004) 7 S.C.C. 338].** In view of the decision of the Supreme Court in the case of Adalat Prasad (supra), no fault can be found with the order of the learned Magistrate rejecting the application for recall of process, hence, I am not inclined to interfere with the order of the learned Magistrate rejecting the application for recall of process.

4. However, for the reasons recorded in my order dated 13th June, 2005 in W.P.No. 213 of 2005 and dated 21st June, 2005 in Cri.Application No.550 of 2005, I am of the opinion that the petitioners have an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the petitioners prefer a revision before the concerned Sessions Court against the order of the Magistrate issuing process.

5. Liberty is granted to the petitioners to prefer the necessary revision before the concerned

Sessions Court. The learned advocate for the petitioners makes a statement that the necessary revision will be preferred within four weeks from today. In view of this statement, the trial Court shall not proceed with the trial for a period of four weeks. It is made clear that the revision shall be preferred against the order of Magistrate issuing process and not against the order rejecting the application for recall of process.

6. On the necessary revision being preferred by the petitioners before the concerned Sessions Court, the concerned Sessions Court shall dispose of the matter on merits after hearing the necessary parties.

7. Writ Petition is disposed of.

8. Authenticated copy be issued to the parties.

[V.K.TAHILRAMANI,J.]